

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BALLARD RURAL TELEPHONE COOPERATIVE
CORPORATION, INC.

)
)
) CASE NO. 95-518
)

INVESTIGATION INTO THE ALLEGED
VIOLATION OF KRS 278.160

O R D E R

On July 12 and 13, 1995, Commission Staff visited Ballard Rural Telephone Cooperative Corporation, Inc. ("Ballard") to perform field work for a cost allocation examination. In addition to reviewing cost allocations, Staff reviewed billing, customer deposits, and capital credits. While reviewing customer bills, Staff found a charge for touchtone on customer bills that did not appear in Ballard's tariff.

On August 8, 1995, Staff and Ballard representatives informally discussed Ballard's untariffed charges. On August 23, 1995, Ballard filed tariffs to include a charge for touchtone service. This tariff was approved on September 21, 1995. On August 23, 1995, Ballard also responded to issues raised in the informal discussion. It is attached hereto and incorporated herein. On September 7, 1995, by letter, Staff requested additional information and Ballard responded on September 12, 1995.

This request and response are also attached hereto and incorporated herein.

Accordingly, the Commission finds a prima facie showing has been made that Ballard failed to file a schedule for certain rates prior to collecting compensation for service in violation of KRS 278.160.

IT IS THEREFORE ORDERED that:

1. Ballard shall appear at a hearing scheduled for December 21, 1995, at 1:00 p.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, to present evidence on the alleged violation of KRS 278.160, and to show cause why Ballard should not be required to make refunds of compensation collected prior to filing tariffs for those services.

2. Any motion requesting any informal conference with Commission Staff to consider any matter which would aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

Done at Frankfort, Kentucky, this 17th day of November, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director


Commissioner



**BALLARD RURAL TELEPHONE COOPERATIVE
CORPORATION, INC.**

2nd and Olive Street
P O Box 209
LaCenter, Kentucky 42036-0209

Telephone (502) 665-5186
FAX # (502) 665-9186

Harlon E. Parker
Manager

August 23, 1995

Mr. Don Mills
Executive Director
PUBLIC SERVICE COMMISSION
Commonwealth of Kentucky
730 Schenkel Lane
Post Office Box 615
Frankfort, Kentucky 40602

Dear Mr. Mills:

Pursuant to 807 KAR 5:011, Section 6, please find enclosed an original and ten copies of proposed revisions to Ballard Rural Telephone Cooperative, Inc.'s General Subscriber Services Tariff. The proposed changes will clarify our pushbutton ("touchtone") tariff and its charges to our customers. The operative billing element for our pushbutton has been moved from PSC 2, Section M Original Sheets 3 and 4 to PSC 2, Section M 2nd Revised Sheet 6. This will not constitute a new charge since we have been providing pushbutton service at the present rate to our customers for a number of years.

In addition, we have included Ballard's response to the information requested by the Staff in the informal conference held on August 8, 1995. If either the Commission or the Staff have any more questions concerning the proposed tariff changes or our response to the Staff's questions please contact me or my staff.

Sincerely,

BALLARD RURAL TELEPHONE COOPERATIVE CORPORATION, INC.

Harlon E. Parker, Manager

Enclosures

GENERAL SUBSCRIBER SERVICES TARIFF

PSC 2

Section M

2nd Revised Sheet 6

Cancelling PSC 2

Section M

1st Revised Sheet 6

Ballard Rural Telephone Cooperative
Incorporated

4. Pushbutton Telephone Service requires special central office equipment and will be provided only from central offices where facilities are available

M.6.2	Installation Charge	Monthly Rate
1. Residential - per line	no charge	\$2.50 (N)
2 Business - per line	no charge	\$2.50 (N)

M.6.3 Conditions

1. The charges quoted herein are in addition to the regular monthly rates for the respective types of service as provided for elsewhere in this Tariff.

2. Service Connection Charges apply as set forth in Section D to changes from rotary to pushbutton calling. (D)

M.7.2 General

1. Charge applies to the installation or application of equipment for the purpose of tracing of harassing telephone calls to a customer. The customer shall be required to present a District Court Order for the above action. The telephone company shall leave the equipment in place for a period no more than seven days. Should a harassing be made during this period, the telephone company shall trace the call and report the results to the proper authorities for legal handling.

M.7.2 Rates

1. Service charge to engage malicious trap and trace to verify call. \$ 7.50
2. Additional charge if employee is called out on overtime (night or weekends) 1.5 times service charge.

Issued: August 24, 1995
By: Harlan E. Tucker
General Manager
Issued under authority K.P.S.C.

Effective: August 24, 1995

dated August 24, 1995

GENERAL SUBSCRIBER SERVICES TARIFF

Ballard Rural Telephone Cooperative
Incorporated

PSC 2
Section Mc
1st Revised Original 3
Cancelling PSC 2
Section Mc
Original Sheet 3

AUXILIARY EQUIPMENT

Mc.1 Basic Standare Lease Instruments

Mc.1.1 Basic Standard Lease Instrument Rate is based on a standard rotary dial 500 type instrument in either the desk or wall model. This rate applies to main and extension instruments leased by the Cooperative. Other types of instruments, including those with a pushbutton or touch-tone dial are listed elsewhere in this Section of the Tariff.

Mc.1.2 Charges for Basic Standard Lease Telephones, are in addition to Network Access Charges in Section "C" of this tariff.

Mc.1.3 Charges

Monthly Rates:	Business	Residence
Basic 500 Types	\$ 1.75	\$ 1.50

Mc.2. Petite, Trendline, Outside Phones

Mc.2.1 These telephones are non-standard rotary or tel-touch design line telephone

Mc.2.2 Rates

Mc.2.3 The following charges are for rotary dial instrument. Instruments with pushbutton dial will have other charges applied in this section of the tariff.

Monthly Rates	Business	Residence
Petite	\$ 1.90	\$ 1.75
Trendline	\$ 2.55	\$ 2.30
Outside Phone	\$ 2.00	\$ 1.75

Mc.3 Pushbutton Dial-Single Line Instruments

Mc.3.1 A charge will apply for each main station or extension line telephone equipped with pushbutton dial. D

Mc.3.2 This charge will be in addition to any pushbutton line charges, extension charges, or special telephone charge. D

Issued August 24, 1995
By *[Signature]*
Issued under the authority K.P.S.C.

Effective: August 24, 1995
General Manager
dated August 24, 1995

GENERAL SUBSCRIBER SERVICES TARIFF

Ballard Rural Telephone Cooperative
Incorporated

PSC 2
Section Mc
1st Revised Original 4
Cancelling PSC 2
Section Mc
Original Sheet 4

Charges: Monthly Charges
Pushbutton Dial (each Instrument).....\$ 2.50

D

Mc.4 Color Phones

Mc.4.1 Except for a Black Telephone, there will a One time non-recurring charge for colors selected other than black

Mc.4.1 Non-recurring Charge \$ 5.00

Mc.5 Weatherproof and Explosive Atmosphere Telephones

Mc.5.1 Weatherproof instruments consist of a metal enclosed Telephone set for outdoor or explosive atmosphere use and are furnished with all classes of service except Public and Semi-Public Service.

Mc.5.2 Monthly Rates:	Business	Residence
	\$ 10.00	\$ 9.75

Mc.6 Cordless Telephones

Mc.6.1 A cordless Telephone, is a telephone where the transmitter/receiver can be separated from the base at a distance of no more than 500 feet. The Cordless Transmitter/Receiver is powered by a rechargeable battery, that is recharge by the base of the Telephone Set. Works with Touch-tone or rotary lines.

Mc.6.2 Monthly Rates:	Business	Residence
Extend-A-Phone EX 1500	\$ 11.75	\$ 11.50
Royse T-026	\$ 7.75	\$ 7.50

Mc.7 Hands Free Telephone

Mc.7.1 Hands free telephone service, sometimes called a loud speaker telephone, is a system whereby one-way and two-way telephone conversations may take place without holding the telephone handset.

Mc.7.2 The monthly rates and installation charges quoted in this tariff are in addition to the normal monthly rate associated with the station to which it is connected as well as any service connection change applicable.

Issued August 24, 1995

By *[Signature]*
Issued under the authority K.P.S.C.

Effective: August 24, 1995
General Manager
dated August 24, 1995

RESPONSE TO STAFF REQUEST DURING INFORMAL CONFERENCE

1. Request:

Provide an explanation and justification for failure to follow touchtone tariff.

Response:

Ballard RTC, as a result of its research of both Kentucky Public Service Commission ("Commission") Orders and its existing tariffs on file at the Commission, believes that its current pushbutton ("touchtone") rate is tariffed consistent with Commission's regulations. In addition, Ballard believes that it is charging touchtone rates consistent with its tariffs. The following narrative provides a background and explanation for this conclusion.

Prior to deregulation, Ballard leased CPE under its General Subscriber Service Tariff, PSC 2, Section Mc on file with the Commission. Ballard charged residential consumers \$1.50 per month for either the rotary or touchtone telephones. In leasing the touchtone phone, Ballard included in their tariff a \$2.50 per month charge for touchtone service. The total cost to consumers, for both the service and instrument, was \$4.00 per month. The treatment was similar on the business side with the exception that a \$1.75 monthly rate was charged for the telephone resulted in a total cost to business of \$4.25 per month for touchtone service.

As a result of action initiated by the Federal Communications Commission, the Commission in the 1980's

totally detariffed CPE. Detariffing was achieved through actions taken in two different Administrative Cases . On October 4, 1984, the first step was taken when the Commission issued its final Order in Administrative Case No. 257 (Order attached) detariffing new CPE. The Order gave formal approval to the accounting and allocation mechanisms that had been proposed for each telephone company. After the issuance of the Order in Adm. Case No. 257, many customers started purchasing their own touchtone phones. They requested touchtone service from Ballard. Ballard instead of filing a separate touchtone tariff or changing the rates and requirements in Section M, simply provided these customers touchtone service pursuant to its General Services Tariff, PSC 2, Section Mc, Sheets 3 and 4.

On September 10, 1985, the Kentucky Public Service Commission took the second step in deregulating CPE when issued its Final Order in Administrative Case No. 269 (Order attached) dealing with single line CPE . This Order laid out the procedures (primarily accounting, billing, and marketing) that the independent companies were to follow in the detariffing of embedded CPE. The Order required Ballard Telephone Cooperative Corporation, Inc. ("Ballard"), along with all other independent local exchange companies, to unbundle and deregulate the sale and lease of embedded CPE subject to conditions described therein. The Order did not require the filing or deletion of any tariff elements other

than the filing of the marketing plan and tariffs necessary for the sale of this equipment. Ballard using the procedure proscribed in this Order (attached) and other Orders in Adm. Case No. 269 detariffed its embedded CPE.

Ballard, consistent with the Orders in Administrative Cases No. 257 and No.269, did not withdraw or refile PSC 2, Section Mc, Original Sheets 3 and 4 of its tariff that included the tariff elements dealing with touchtone service. The tariff sheet was filed in 1983 and remains on file as an active tariff with the Commission. The tariff language has not been changed in the ensuing years either voluntarily by Ballard or by Order of the Commission. In effect, the touchtone tariff element in Section Mc remains a legal tariff element that requires Ballard to charge customers (business and residential) that use touch tone instruments at \$2.50 per month fee. Ballard has applied it on an access line basis since deregulation of CPE.

The major problem with the touchtone charge actually occurs because of a tariff that was originally filed with the Commission prior to 1983. PSC 2, Section M, 1st Revised Sheet 6, M.6.2 contains tariff elements for touchtone service which are listed at no charge for either residential or businesses. Though Ballard recognizes the potential inconsistency in the tariffs, Ballard's position is that if it had included a touchtone charge in this section of its tariffs Ballard would have been force in the 1980s to charge some consumers twice

for touchtone service. Therefore, the potential inconsistency is really an illusion. Ballard's combination of touchtone tariff elements actually results in a rate that has been fairly and consistently applied to all touchtone users.

Ballard believes that the tariff changes it has filed this week will clarify its rates for touchtone services. It will also commit to work with the Commission Staff to delete from its tariffs obsolete rules and information, plus where necessary, provide clarifying language in other sections of its tariffs so that the current situation will not reoccur.

2. Request: Provide an explanation as to why the Commission's
shouldn't open a proceeding concerning Ballard's
touchtone tariff.

Response:

Ballard does believe that it is in compliance with both the Statutes and the Commission's Regulations as far as it touchtone tariff is concerned. If the Commission does not agree with Ballard's position, the Cooperative does contend that there are other mitigating circumstances which should be considered by the Commission prior to opening a proceeding against Ballard.

First, such action would impact the financial condition of the Cooperative and affect its rotation of capital credits. Ballard currently has on file with the Commission a \$9,980,418 Certificate of Convenience and Necessity Case. An adverse ruling would impact Ballard's revenue just as its revenue requirements are growing. We estimate that forcing Ballard to withdraw its current touchtone charge without any offsetting charge or expense would cost it approximately \$100,000 per year. The resulting reduction in touchtone rates could possibly force Ballard into filing a future rate case. A rate case would result in substantial costs to the Cooperative that would provide little benefit to either Ballard or its consumers.

Second, refunds for the years since 1983 would result in a substantial immediate impact on Ballard's current financial

situation. Our estimates of the revenue impact from touchtone for the two and one half years, that we are certain of the data, is as follows:

1993	\$ 87,090
1994	95,265
1995 thru June	<u>53,955.</u>
Total	\$ 236,310

The service has been offered since 1983, but, we have been unable to recover either the billing determinants or the revenues figures associated with the service prior to 1993. Obviously the total would be much higher if we can find a way to recover the necessary revenue data. As is shown in Request No. 3, Ballard has been one of the most aggressive RTC in the state in rotating capital credits. By the end of 1995 Ballard will have rotated capital credits through 1988. Earnings, which have been greater than necessary to operate the utility, have been returned to our consumer/owners. Many of the consumers, who have been using touchtone service during the last eleven (11) years, are recipients of these same capital credits. To require a refund to these consumers would result in an unequitable distribution of benefits to these consumers relative to our other consumers, since they did use and derive benefits from touchtone service. If a refund is necessary then it will have to come out of retained earnings which will of necessity impact our capital credit rotation plans.

Finally, Ballard is a Rural Telephone Cooperative. Ballard's owners are its consumers. Proceedings which increase the cost of service will provide little if any

benefits because it will have to be paid by those same consumers. In effect a regulatory proceeding will result in a dead weight loss to consumers.

3.Request: The Commission staff requested that Ballard provide
a history of its capital credits rotations.

Response: Capital credits were either or will be paid to its
customers in the following manner:

- A. Years from 1963 to 1985,
\$3,157,149.69 paid on April 25, 1991;
- B. Year of 1986,
\$712,706.75 paid on May 4, 1992;
- C. No capital credits were paid in 1993;
- D. Year of 1987,
\$588,711.31 paid on November 18, 1994;
- E. Year of 1988,
\$888,448.07 will be paid in December 1995. This
was approved by the Board of Directors on August 3,
1995.



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
730 SCHENKEL LANE
POST OFFICE BOX 613
FRANKFORT, KY. 40602
(502) 564-1940

September 7, 1995

Mr. Harlon E. Parker
General Manager
Ballard Rural Telephone
Cooperative Corporation, Inc.
P.O. Box 209
LaCenter, Kentucky 42056-0209

Dear Mr. Parker:

As you are aware, during the cost allocation examination, Jim Stevens found that a charge of \$2.50 was being levied against subscribers for touchtone service even though Ballard's tariff reflected zero as the tariffed rate. The explanation at that time was that the company had a \$2.50 rental fee for leased touchtone instruments which included the touchtone service. After the Company's lease business was impacted by deregulation of CPE, the company unilaterally began charging \$2.50 for touchtone service.

In the information submitted by Mr. Jim Sharpe on behalf of Ballard, Mr. Sharpe indicated that prior to deregulation the Company charged \$1.50 per month for either a rotary or touchtone instrument and \$2.50 for touchtone service, which totaled \$4.00 for a touchtone instrument and service.

Mr. Sharpe's explanation contradicts the explanation given to Jim Stevens. In addition, the tariff does not reflect a \$1.50 charge for leased touchtone instruments. The only tariffed charge for leased instruments for \$1.50 is a basic 500 type rotary telephone.


As a result of this apparent discrepancy, the staff would like to verify through a review of billing records which explanation is correct. In order to avoid significant travel time, please provide at least 15 bills or pages of bills which substantiate that subscribers for leased touchtone instruments were being charged \$1.50 for the instruments and \$2.50 for the touchtone service.

The copies can either be sent to my attention by facsimile at (502) 564-1582 or expressed mail to the Commission's offices.

Mr. Parker
September 7, 1995
Page 2

If you have any questions please call me at (502) 564-3940,
extension 445 or Jim Stevens at extension 446.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Strack", with a long horizontal flourish extending to the right.

Bill Strack, Manager
Telecommunications Branch

BS/kal



**BALLARD RURAL TELEPHONE COOPERATIVE
CORPORATION, INC.**

2nd and Olive Street
P. O. Box 209
LaCenter, Kentucky 42056-0209

Telephone (502) 665-5186
FAX # (502) 665-9186

September 8, 1995

Harlon E. Parker

Mr. Don Mills

Executive Director
Kentucky Public Service Commission
730 Schenkel Lane
P O Box 615
Frankfort KY 40602

RECEIVED

SEP 12 1995

Division of Financial Analysis

Attn: Mr. Bill Strack

Dear Mr. Mills:

As requested, please find enclosed fifteen (15) copies of customer bills from Ballard RTC files. I believe that the copies of these bills will demonstrate that Ballard is continuing to charge the same rates for the basic touchtone phone and touchtone service after deregulation as before. I agree that the 1983 tariff for the telephone instrument did not include the basic black touchtone telephone, but it was equivalent, so we charged the same price as for the basic 500 type rotary telephone. The other telephones included in the Mc Section of our tariffs were considered upgrades from basic telephone instruments so Ballard charged a higher rate. Again, Ballard did not differentiate in its pricing between touchtone or rotary for the upgraded instruments. The rate for the telephone instrument whether touchtone or rotary was exactly the same only Ballard charged \$2.50 for touchtone service to those that wanted to use this service.

I hope that this clarifies how Ballard applied its tariff in the 1980's and how it continues to charge for its unregulated telephones and regulated touchtone service. I would like to apologize for any misunderstanding on the part of the Commission Staff and to indicate that there was no intention on my part to mislead Mr. Stevens. If you have any questions concerning this response please contact me at 502/665-5186.

Sincerely,

BALLARD RURAL TELEPHONE COOPERATIVE CORPORATION, INC.

Harlon E. Parker
Harlon E. Parker, Manager

HEP:bjr

Enclosures (15)